

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

TRAVELOCITY.COM LP,

Plaintiff,

v.

CIVIL ACTION NO. 1:09-CV-884

TRAVELOCITYINDIA.COM,

Defendant.

**PLAINTIFF'S MEMORANDUM IN SUPPORT OF
MOTION TO DIRECT SERVICE OF PROCESS BY PUBLICATION**

On August 7, 2009, Plaintiff Travelocity.com LP (“Travelocity”), by counsel, filed this *in rem* action against the domain name <travelocityindia.com> (the “Domain Name”) in accordance with the provisions of the Anti-Cybersquatting Consumer Protection Act (“ACPA”), 15 U.S.C. § 1125(d). Travelocity hereby moves this Court to direct service by publication in this matter pursuant to the ACPA in the form and manner discussed below.

ARGUMENT AND CITATION OF AUTHORITIES

I. The ACPA's Requirements on Effecting Service of Process

The service requirements for actions filed under the *in rem* provisions of the ACPA require that service be accomplished through

(aa) sending a notice of the alleged violation and intent to proceed under this paragraph to the registrant of the domain name at the postal and e-mail address provided by the registrant to the registrar; [“Paragraph (aa)’’] and

(bb) publishing notice of the action as the court may direct promptly after filing the action. [“Paragraph (bb)’’]

15 U.S.C. § 1125(d)(2)(A)(ii)(II)(aa), (bb); 15 U.S.C. § 1125(d)(2)(B) (“The actions under

subparagraph (A)(ii) shall constitute service of process”).

As detailed herein, Travelocity has complied with the provisions of Paragraph (aa), and now asks the Court to approve publication of the action in the form discussed below, in accordance with Paragraph (bb).

A. *Travelocity Has Sent the Required Notice to the Registrant*

The Domain Name is registered to Travelocity (India) Pvt Ltd. (“TIPL”). TIPL identified its address in the registration record for the domain name as “Mumbai, null, 400 708, IN,” and its e-mail address as “naresh@travelocityindia.com.” A copy of the WHOIS database record for the Domain Name is attached as Exhibit A.

On July 24, 2009, prior to filing this action, Travelocity sent TIPL a notice of Travelocity’s intent to proceed with this *in rem* action using the postal address and e-mail address TIPL provided to its registrar. A copy of the notice is attached as Exhibit B. Accordingly, Travelocity has complied with the requirements of 15 U.S.C. § 1125(d)(2)(A)(ii)(II)(aa).

B. *Travelocity’s Proposed Publication of Notice Meets the Requirements of the ACPA and Comports with Indian Law*

Section 1125(d)(2)(A)(ii)(II)(bb) of the ACPA further requires plaintiffs filing *in rem* actions to “publish[] notice of the action as the court may direct promptly after filing the action.” 15 U.S.C. § 1125(d)(2)(A)(ii)(II)(bb); *see also* 15 U.S.C. § 1125(d)(2)(B).

Travelocity proposes to publish the following notice for five (5) consecutive days, in English in the Mumbai, India newspaper *Free Press Journal* and in Marathi in the Mumbai newspaper *Navshakti*, in a text box no smaller than 4cm x 5cm:

NOTICE OF ACTION REGARDING <TRAVELOCITYINDIA.COM>

Travelocity.com LP ("Travelocity") has filed an action in the United States District Court for the Eastern District of Virginia, Alexandria Division, Civil Action No. 1:09-CV-884, alleging that the registration and use of the domain name <travelocityindia.com> constitutes cyberpiracy in violation of the laws of the United States. A written answer or other response to the claims of Travelocity's Complaint must be filed with the Court no later than twenty (20) days of the last date of publication. If no appearance or pleading is filed as required by this Order, this Court may render a judgment against the domain name, which could include the forfeiture or cancellation of the domain name or the transfer of the domain name to Travelocity.

Attorneys of Record for Travelocity:

Jason D. Rosenberg
Virginia Bar No. 68603
Attorney for
Travelocity.com LP
Alston & Bird, LLP
1201 West Peachtree Street
Atlanta, GA 30309-3424
Ph: 404/881-7461
Fax: 404/253-8861
jason.rosenberg@alston.com

Alan L. Whitehurst
Virginia Bar No. 42014
Attorney for
Travelocity.com LP
Alston & Bird, LLP
950 F Street, NW
Washington, DC 20004-
1404
Ph: 202/756-3300
Fax: 202/756-3333
alan.whitehurst@alston.com

As set forth in the attached declaration of Bijesh Thakker, a senior member of the bar in India, such notice meets the legal notice requirements of Indian law, as well as local practice and custom for service of process by publication. *See* Declaration of Bijesh Thakker, attached as Exhibit C.

If the foregoing proposal is acceptable to the Court, Travelocity will arrange for publication of the foregoing notice as soon as practicable after entry of the Court's Order granting this motion.

Respectfully submitted, this 11th day of August, 2009.

By: /s/ Jason D. Rosenberg
Jason D. Rosenberg
Virginia Bar No. 68603
Alston & Bird, LLP
1201 West Peachtree Street
Atlanta, GA 30309-3424
Ph: 404/881-7461
Fax: 404/253-8861
jason.rosenberg@alston.com

Alan L. Whitehurst
Virginia Bar No. 42014
Alston & Bird, LLP
950 F Street, NW
Washington, DC 20004-1404
Ph: 202/756-3300
Fax: 202/756-3333
alan.whitehurst@alston.com

OF COUNSEL:
David J. Stewart
Georgia Bar No. 681149
Alston & Bird, LLP
1201 West Peachtree Street
Atlanta, GA 30309-3424
Ph: 404/881-7952
Fax: 404/881-7777
david.stewart@alston.com

Attorneys for Travelocity.com LP

CERTIFICATE OF SERVICE

I hereby certify that on this 11th day of August 2009, I have electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will send a notification of such filing (NEF) to all filing users.

And I hereby certify that I have sent the foregoing to the registrant of the of Defendant Domain Name <travelocityindia.com> via e-mail at the following e-mail address and via international UPS at the postal address the registrant provided to the registrar for the domain name <travelocityindia.com>:

Travelocity (India) PVT, Ltd.
c/o Naresh
Mumbai, null, 400 708,
INDIA
e-mail: naresh@travelocityindia.com

/s/ Jason D. Rosenberg
Jason D. Rosenberg, Esq.
Virginia Bar No. 68603
Attorney for Travelocity.com LP
Alston & Bird, LLP
1201 West Peachtree Street
Atlanta, GA 30309-3424
Ph: 404/881-7461
Fax: 404/253-8861
jason.rosenberg@alston.com